

§4.126

10 CFR Ch. I (1–15 Edition)

what extent they are disabled: *Provided, That:*

(1) The recipient makes clear to the applicant that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient makes clear to the applicant that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided, That:*

(1) All entering employees are subjected to such an examination regardless of disability; and

(2) The results of such an examination are used only in accordance with the requirements of this subpart.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant must be collected on separate forms. The recipient shall retain each form as a record for three years from the date the applicant's employment ends, or, if not hired, from the date of application. Each form must be accorded confidentiality as a medical record, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties that may be assigned to disabled persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition associated with the disability might require emergency treatment; and

(3) Government officials investigating compliance with the Rehabilitation Act of 1973 shall be provided relevant information upon request.

[45 FR 14535, Mar. 6, 1980, as amended at 53 FR 19244, May 27, 1988]

§4.126 General requirement concerning accessibility.

No qualified disabled person shall, because a recipient's facilities are inaccessible to or unusable by disabled persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance.

[45 FR 14535, Mar. 6, 1980, as amended at 68 FR 51345, Aug. 26, 2003]

§4.127 Existing facilities.

(a) *Accessibility.* A recipient shall operate each program or activity so that when each part is viewed in its entirety it is readily accessible to and usable by disabled persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by disabled persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of health, welfare or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of §4.128 or any other methods that result in making its program or activity accessible to and usable by disabled persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that serve disabled persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this subpart except that where structural changes in facilities are necessary, the changes are to be made within three years of the effective date of this subpart, but in any event, as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop a transition plan setting forth the steps necessary to complete the changes. The plan is to be developed with the assistance of interested persons, including disabled persons, or organizations representing disabled persons, and the plan is to meet with the approval of the NRC. The recipient shall retain a copy of the transition plan as a record until any structural change to a facility is complete. A copy of the transition plan is to be made available for public inspection. At a minimum, the plan is to:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility and usability of its program or activity to disabled persons;

(2) Describe in detail the methods that will be used to make the facilities accessible to and usable by disabled persons;

(3) Specify the schedule for taking the steps necessary to achieve full accessibility under paragraph (a) of this section and, if the time period or the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to, and usable by, disabled persons.

[45 FR 14535, Mar. 6, 1980, as amended at 53 FR 19244, May 27, 1988; 68 FR 51345, Aug. 26, 2003]

§4.128 New construction.

(a) *Design, construction, and alteration.* New facilities shall be designed and constructed to be readily accessible to and usable by disabled persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by disabled persons.

(b) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with sections 3–8 of the Uniform Federal Accessibility Standards (USAF) (appendix A to 41 CFR subpart 101–19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical disabilities.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

[55 FR 52138, 52139, Dec. 19, 1990]

ENFORCEMENT

§4.231 Responsibility of applicants and recipients.

(a) *Assurances.* An applicant for Federal financial assistance to which this subpart applies shall submit an assurance, on a form specified by the responsible NRC official, that the program or activity will be operated in compliance with the subpart. An applicant may incorporate these assurances by reference in subsequent applications to the NRC.

(b) *Duration of obligation.* The assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Remedial action.* (1) If the responsible NRC official finds that a recipient has discriminated against persons on the basis of disability in violation of section 504 or this subpart, the recipient shall take such remedial action as